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Open-ended Working Group on Ageing
Second working session
New York, 1-4 August 2011

Report of the Open-ended Working Group on Ageing

Rapporteur: Léo **Faber** (Luxembourg)

I. Organization of the session

A. Opening and duration of the session

1. The Open-ended Working Group on Ageing held its second working session, consisting of seven meetings, at United Nations Headquarters from 1 to 4 August 2011.

2. The session was opened by the Chair of the Working Group, Jorge Argüello (Argentina), who made a statement.

B. Attendance

3. The session was attended by representatives of States Members of the United Nations. Representatives of organizations of the United Nations system and observers for intergovernmental and non-governmental organizations also attended. A list of participants is contained in document A/AC.278/2011/INF/2.

C. Election of officers

4. At the 1st meeting of its second working session, on 1 August, the Working Group elected Ervin Nina (Albania) as Vice-Chair.

D. Adoption of the agenda and organization of work

5. Also at the 1st meeting of its second working session, the Working Group agreed to the previously adopted provisional agenda for the session, contained in document A/AC.278/2011/3. The agenda read as follows:

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1. Election of the Bureau.
2. Adoption of the agenda and other organizational matters.
3. Participation of non-governmental organizations in the work of the Open-ended Working Group on Ageing.
4. Existing international framework on the human rights of older persons and identification of existing gaps at the international level.
5. Other matters.
6. Adoption of the report.

6. At the same meeting, the Working Group approved the proposed organization of work for its second working session, which was set out in an informal paper available in English only.

E. Participation of non-governmental organizations in the work of the Open-ended Working Group on Ageing

7. At the 1st meeting of its second working session, the Working Group also decided to grant accreditation to the following non-governmental organizations to participate in its work:

Action solidaire pour un développement entretenu à la base (Togo)

Age UK (United Kingdom of Great Britain and Northern Ireland)

Ageing Safely (United States of America)

Alzheimer's Disease International (United Kingdom)

AMD Alliance International (United Kingdom)

American Federation for Ageing Research (United States)

Associação Nacional dos Membros do Ministério Público de Defesa dos Direitos dos Idosos e Pessoas com Deficiência (Brazil)

Benetas (Australia)

Beth Johnson Foundation (United Kingdom)

Campaign for Human Rights and Development Sierra Leone (Sierra Leone)

Council on the Ageing Australia (Australia)

Council on the Ageing South Australia (Australia)

Council on the Ageing Victoria (Australia)

DaneAge (Denmark)

Dementia SA (South Africa)

Development, Welfare and Research Foundation (India)

Dobroe Delo (Russian Federation)

Fiji Council of Social Services (Fiji)

Fundashon Nos Grandinan (Netherlands)

Geriatric Center Nepal (Nepal)

Janaseva Foundation (India)

Jewish Association for Services for the Aged (United States)

National Academy of Elder Law Attorneys (United States)

Regional Centre for the Welfare of Ageing Persons in Cameroon (Cameroon)

Silver Innings Foundation (India)

Turbota pro Litnikh v Ukraini (Age Concern Ukraine) (Ukraine)

Volunteers of America (United States)

Život 90 (Czech Republic)

F. Documentation

8. The list of documents before the Working Group at its second working session and the list of participants to the session are available from http://social.un.org/ageing-working-group/index.shtml.

II. Existing international framework on the human rights of older persons and identification of existing gaps at the international level

9. The Working Group considered item 4 of its agenda at the 1st to the 7th meetings of its second working session, from 1 to 4 August 2011. It held a general discussion of the item at its 1st meeting.

10. At its 1st meeting, on 1 August, the Working Group heard statements by the representatives of the following Member States: Argentina, Brazil, Canada, Chile, Costa Rica, the Dominican Republic, Israel, Japan, Mexico, New Zealand, the Russian Federation, the United States of America and Uruguay.

11. At the same meeting, a statement was made by the representative of the European Union.

12. Also at the 1st meeting, statements were made by representatives of the following non-governmental organizations: Federation of Associations of Former International Civil Servants; AARP; HelpAge International; Age UK; International Network for the Prevention of Elder Abuse; International Federation on Ageing; Association camerounaise pour la prise en charge des personnes agées; and Univers de solidarité et de développement (also on behalf of Action solidaire pour un développement entretenu à la base).

Panel discussion on "Discrimination and multiple discrimination"

13. At its 2nd meeting, on 1 August, the Working Group held a panel discussion on the topic "Discrimination and multiple discrimination", which was moderated by the Vice-Chair of the Working Group, Léo Faber (Luxembourg).

14. Presentations were made by the following panellists: Víctor Abramovich of the Institute of Public Policy on Human Rights, Southern Common Market (MERCOSUR); Roedolf Kay, South African Older Persons' Forum; Ahmad Zia Langari, Afghanistan Independent Human Rights Commission; and Craig Mokhiber, Head of the Development and Economic and Social Issues Branch, Office of the United Nations High Commissioner for Human Rights (OHCHR).

15. At the same meeting, the Working Group held a dialogue with the panellists, in which the delegations of the following countries participated: Brazil, Chile, Denmark, the Dominican Republic, France, the Netherlands, the United States and Uruguay. The representative of the European Union also participated, as did the non-governmental organization Associação Nacional dos Membros do Ministério Público de Defesa dos Direitos dos Idosos e Pessoas com Deficiência.

Panel discussion on the "Right to health of older persons"

16. At its 3rd meeting, on 2 August, the Working Group held a panel discussion on the topic "Right to health of older persons", moderated by Alexandre Kalache (Brazil).

17. Presentations were made by the following panellists: John Beard, Director, Department of Ageing and Life Course, World Health Organization (WHO); Mara Bustelo, Chief, Economic, Social and Cultural Rights Section, Special Procedures Division, OHCHR; and Jan Killeen, Alzheimer's Disease International.

18. Also at the 3rd meeting, the Working Group held a dialogue with the panellists, in which the delegations of the following Member States participated: Argentina, Australia, Brazil, Chile, Denmark, the Dominican Republic, France, Israel, the Netherlands, Qatar, the Russian Federation, Singapore, the Sudan, the United Kingdom of Great Britain and Northern Ireland and Uruguay. The representatives of the European Union and the Pan American Health Organization also participated, as well as the following non-governmental organizations: HelpAge International, the American Federation for Ageing Research, Gerontólogos Argentinos Asociación Civil and AARP. A statement was also made by the representative of the Economic Commission for Latin America and the Caribbean.

Discussion on "Violence and abuse against older persons"

19. At its 4th meeting, on 2 August, the Working Group held a discussion on the topic "Violence and abuse against older persons", which was moderated by the Vice-Chair of the Working Group, Mozah Al-Kaabi (Qatar).

20. Presentations were made by the following panellists: Claudio Grossman, Chair, Committee against Torture; Kieren Fitzpatrick, Director, Asia Pacific Forum of National Human Rights Institutions; and Teresa Minja, Chair, Tanzania Social Protection Network.

21. At the same meeting the Working Group held a dialogue with the panellists, in which the delegations of the following Member States participated: Argentina, Austria, Brazil, Canada, Chile, the Dominican Republic, France, Japan, the Netherlands and Switzerland. The representatives of the European Union and the Pan American Health Organization also participated, as did the following non-governmental organizations: World Peace and Economic Development Organization; Soroptimist International; Dementia SA; International Network for

the Prevention of Elder Abuse; Janaseva Foundation; HelpAge International; Fundashon Nos Grandinan; the Afghanistan Independent Human Rights Commission; and the Confederation of Older Persons Associations of the Philippines.

Discussion on "Social protection and older persons"

22. At the 5th meeting, on 3 August, the Working Group held a discussion on the topic "Social protection and older persons", which was moderated by the Head of the OHCHR Development and Economic and Social Issues Branch, who made an opening statement.

23. The Working Group heard presentations by the following panellists: Wambui Kimathi, Commissioner, Kenya National Commission on Human Rights; Magdalena Sepúlveda Carmona, Special Rapporteur on extreme poverty and human rights of the Human Rights Council; and Salvacion Basiano, President, Confederation of Older Persons Associations of the Philippines.

24. Also at the 5th meeting, the Working Group held a dialogue with the panellists, in which the delegations of the following countries participated: Argentina, Brazil, Canada, Chile, Denmark, the Dominican Republic, France, Israel, Italy, Japan, the Philippines, Qatar, the United Kingdom and Uruguay. The following non-governmental organizations also participated: International Federation on Ageing; Gray Panthers; and Dementia SA.

25. Ellen Bortei-Doku Aryeetey, Head of the Centre for Social Policy Studies, University of Ghana, also made a statement.

Discussion on "Age and social exclusion of older persons"

26. At its 6th meeting, on 3 August, the Working Group held a discussion on the topic "Age and social exclusion of older persons", which was moderated by Jean-Pierre Gonnot, Chief, Social Integration Branch, Division for Social Policy and Development, Department of Economic and Social Affairs, who made an opening statement.

27. The Working Group heard presentations by the following panellists: Ms. Bortei-Doku Aryeetey; Oldrich Stanek, Život 90; and Himanshu Rath, Founder and Chair of Agewell Foundation.

28. At the same meeting, the Working Group held a dialogue with the panellists, in which the delegations of the following countries participated: Argentina, Brazil, Chile and France. The representative of the European Union also participated, as did Gerontólogos Argentinos Asociación Civil, a non-governmental organization.

Discussion on "Identification of existing gaps at the international level and measures to address them"

29. At the 7th meeting, on 4 August, the co-facilitators, Marie Kierle (France) and Kieren Fitzpatrick, Director, Asia Pacific Forum of National Human Rights Institutions, made statements on this topic.

30. At the same meeting an interactive dialogue was held, at which the representatives of the following countries made statements: Argentina, Brazil, Canada, Chile, China, Colombia, the Dominican Republic, Guatemala, India, Japan,

Mexico, the Netherlands, New Zealand, Nicaragua, Norway, Panama, Qatar, Sweden, Switzerland, the United Kingdom of Great Britain and Northern Ireland, the United States and Uruguay. The representative of the European Union also made a statement.

31. Also participating were Teresa Minja, Chair, Tanzania Social Protection Network; Salvacion Basiano, President, Confederation of Older Persons Associations of the Philippines (also on behalf of HelpAge International and HelpAge Philippines); Ellen Bortei-Doku Aryeetey, Head of the Centre for Social Policy Studies, University of Ghana; Roedolf Kay, South African Older Persons' Forum; and Jan Killeen.

32. Statements were also made by the representatives of the following non-governmental organizations: Council on the Ageing; Age UK; Dementia SA; International Federation on Ageing; American Association of Retired Persons (also on behalf of the NGO Committee on Ageing); International Association of Gerontology and Geriatrics; International Network for the Prevention of Elder Abuse; Global Action on Ageing; HelpAge International; and International Longevity Centre Global Alliance.

33. At the same meeting, the co-facilitator summarized the key points of the discussion. The Chair informed the delegations that his summary (see below) would also be made available on the website of the Working Group.

III. Chair's summary of the key points of the discussions

34. The Chair's summary reads as follows:

Introduction

In December 2010, the General Assembly established the Open-ended Working Group on Ageing for the purpose of strengthening the protection of the human rights of older persons. Its mandate called for the consideration of the existing international framework on the human rights of older persons and the identification of possible gaps and how best to address them, including by considering, as appropriate, the feasibility of further instruments and measures.

The second working session was organized around five topics, namely, discrimination and multiple discrimination; the right to the enjoyment of the highest attainable standard of physical and mental health; violence and abuse; social protection and the right to social security; and age and social exclusion.

Sixteen panellists discussed the extent to which the human rights situation of older persons had been addressed at the national and international levels, in reference to concrete legislation, policies and practices. Several raised concerns about the slow pace of progress on and/or low priority granted to the issue at the national and international levels and made reference to the limitations of existing mechanisms.

During the ensuing dialogues, all participating delegations and representatives from civil society organizations and networks recognized the importance of shedding light on the human rights situation of older persons. Delegations emphasized their commitment to building inclusive societies

where all individuals, regardless of age, can exercise and enjoy their fundamental rights and freedoms without discrimination. Delegations also recognized that the Working Group offered a much-needed opportunity to raise the profile of older persons' human rights in the international human rights agenda. Although it was often noted that older persons faced different situations, depending on their country of residence, their vulnerability to human rights violations was acknowledged, as was the need to put in place special measures to ensure that they could exercise their rights.

Delegations welcomed the opportunity to examine areas of concern not yet sufficiently addressed internationally, and several expressed appreciation for the dialogue, which allowed them to outline their good practices and efforts towards more age-friendly societies. Many delegates saluted cross-fertilization among Member States and regions as a positive outcome of the session.

Delegations and representatives from civil society organizations and networks recognized the existence of gaps in the international protection system. There were diverging views, however, about the type of gaps that had been identified and measures to address them. References were made to normative, monitoring, implementation and knowledge or information gaps. Some delegations called for more in-depth analysis and articulation of specific gaps in the context of the Working Group.

Among some of the measures suggested during the second session, several delegations and representatives from civil society organizations and networks, as well as a number of panellists, argued in favour of a legally binding instrument that could address the various gaps identified in the protection of human rights of older persons. Other Member States argued for the stronger use of core international instruments by existing treaty bodies and special procedure mandate holders, noting the resource-intense process of drafting a new convention. Several delegations also called for a new special procedure mandate to focus on the human rights of older persons. The second review and appraisal of the Madrid International Plan of Action on Ageing, 2002, which is to take place in 2012 to 2013, was also seen as an opportunity to assess the current status of the social situation, well-being, participation in development and rights of older persons.

Day one (1st meeting): statements by Member States and civil society organizations

The Chair of the Working Group opened the second working session by encouraging Member States and civil society organizations to enable the necessary progress and engage in a robust dialogue regarding the human rights of older persons.

The opening session was well attended, with representatives of approximately 75 delegations and many non-governmental organizations in the conference room. Representatives of 14 delegations took the floor, one on behalf of the European Union, as did representatives of nine non-governmental organizations.

Several delegations welcomed the second working session of the Working Group as an opportunity to identify existing international efforts for

the protection and promotion of the human rights of older persons and to consider further measures and mechanisms. Delegations noted that the Working Group also aimed at raising awareness and sharing experiences, policies and practices. Some noted that the rights of older persons were enshrined in national laws, policies and programmes and that those rights were more explicitly included in recent reforms.

Age discrimination and its effects on older persons and society at large were crucial issues for many delegations. In addition, violence against and abuse of older persons were issues repeatedly invoked by delegations. Some delegations noted important principles that guided or should offer further guidance in shaping policies for older persons, such as ensuring their independence, autonomy, participation and equality. Delegations mentioned particular rights-related issues in need of urgent attention, such as age-friendly health systems, disability and long-term care services, and pensions, as well as age-adequate housing and transportation to enhance independent living.

The empowerment of older persons to claim their rights, their participation in development and policymaking and the recognition of their contribution to society were identified as central dimensions of their human rights. Social protection in the form of public and social pensions to prevent or combat poverty and access to work and education were also seen as important human rights issues.

A number of delegates encouraged a greater focus on the part of human rights treaty bodies on investigating rights-related issues specifically for older persons. Some delegations noted, however, that existing instruments did not provide adequate guarantees and that they led to scattered and complex processes that had not responded, thus far, to the needs of older persons.

Some delegates pointed out that a comprehensive analysis of protection gaps was needed and that much could be gained by improved data collection, the use of disaggregated statistics or the commissioning of studies. There was a call for regional approaches to designing appropriate mechanisms for older persons from some delegates, while others argued in favour of universal standards and monitoring mechanisms in line with what had been put in place for other population groups, such as children or persons with disabilities.

Owing to the lack of a monitoring body concerning the rights of older persons and of a binding international human rights instrument for older persons, some delegates called for further measures in this regard, including the appointment of a Special Rapporteur for older persons and the drafting of an international convention on the subject.

Delegations acknowledged the importance of the Madrid International Plan of Action on Ageing, 2002 as a tool for designing policy that would improve the quality of life of older persons. Some delegates remarked that they looked forward to the second review and appraisal cycle of the Madrid Plan in 2012 and 2013 as an opportunity to enhance the knowledge base and understanding of the problems Governments faced due to ageing populations.

In this regard, two positions were expressed. Some delegations suggested that the outcome of the review process would be required prior to the consideration of additional instruments or mechanisms to address human rights

issues at the international level, while others noted that the review of the Madrid Plan constituted an important contribution but that it should not delay ongoing discussions about further instruments or mechanisms, particularly considering that the Madrid Plan was a non-binding instrument.

Some representatives of civil society organizations and networks noted egregious human rights abuses of older women, as well as general social exclusion, isolation and a loss of dignity of many older persons. In addition, some representatives of civil society organizations pointed out that existing international and human rights laws did not sufficiently protect the rights of older persons and that standards were scattered throughout various international conventions. They called for a holistic approach in that regard and noted that a convention on the rights of older persons could facilitate that approach. Such an instrument would combat ageism and age discrimination and guide policymaking.

Day one (2nd meeting): discrimination and multiple discrimination

(Moderated by Léo Faber (Luxembourg), Vice-Chair of the Working Group)

Víctor Abramovich, Executive Secretary of the Southern Common Market Institute of Public Policy on Human Rights and former member of the Inter-American Commission on Human Rights, addressed three key areas for explicit consideration in a new instrument: (a) formal equality before the law and the inclusion of age as a prohibited ground for discrimination; (b) substantive equality to address structural discrimination, which in turn requires States to take positive steps, especially in the area of social policies and services, with particular reference to the situations of multiple discrimination suffered by some older persons; and (c) due diligence and the obligation to protect individuals from human rights violations and to provide safeguards against violence and abuse often affecting older persons' right to life and personal integrity, including actions or practices by non-State actors, such as care institutions. He also emphasized that a convention on the rights of older persons should reaffirm the fundamental principle of equality and non-discrimination on the basis of age.

Roedolf Kay, National Coordinator of the South African Older Persons' Forum, noted that in South Africa, despite the introduction of a legal framework for protecting, promoting and fulfilling the rights of older persons, the reality was that many individuals, in particular those from rural areas, continued to experience discrimination in various forms on a daily basis. He also made reference to the fact that many older persons had endured racial discrimination and apartheid for many years of their lives. He underscored that older persons were often subjected to discrimination due to, inter alia, age, health and social status, reinforcing that they were the most disadvantaged and vulnerable members in South African society. He stated that while the South African Older Persons' Forum had made progress in raising awareness about the issue, the situation of older persons was still not considered a main priority in policymaking.

Ahmad Zia Langari, Commissioner of the Afghanistan Independent Human Rights Commission, volunteered some examples of the situation of older persons in Afghanistan. He noted that in Islam, serving elders was a duty

second to prayer. Nevertheless, changes in the family structure, migration and urbanization were having a great impact in terms of care for older persons. Stereotypes about older persons being a burden to families created social marginalization. He noted with concern examples of discrimination against women, which had had an impact on their entire lives, including in areas such as education and literacy, as well as the difficult situation of older persons in rural areas or those who were poor and could not access or afford health services. He noted that social security, education and health were typical sectors where older persons often faced discrimination. In particular in countries where the health sector is highly privatized, impoverished older persons have no access to good health services.

The Chief of the Development and Economic and Social Issues Branch, OHCHR, in reference to the findings in the report of the Secretary-General pursuant to General Assembly resolution 65/182 (A/66/173), underscored that age-related discrimination was one of the most frequent challenges faced by older persons around the world. Under international human rights law, he noted, discrimination was defined as any distinction, exclusion or restriction which impaired or nullified the exercise of human rights in any field. He recalled that existing international human rights standards applied to the protection of older persons and that existing treaties included provisions relevant to the human rights of older persons. Mr. Mokhiber noted that those efforts were essential to protecting the human rights of older persons, but that they remained inadequate and fragmented in offering effective international protection to older persons.

During the dialogue, delegations recognized that combating multiple discrimination required not only comprehensive policies and a multisectoral approach to old age but also specific efforts to combat the stereotypes that lead to direct and indirect discrimination. One delegation noted that a combination of health services, minimum income and a legal mechanism of protection against abuse and violence had helped to improve the situation at the national level. A similar approach could be taken at the international level by the introduction of an instrument combining various standards. One delegation shared the experience of a board of equal treatment with an explicit mandate to address age discrimination and the impact that regional guidelines and instruments had in increasing awareness and policymaking.

Day two (3rd meeting): the right to the highest attainable standard of physical and mental health of older persons

(Moderated by Alexandre Kalache (Brazil), an expert on public health and ageing issues)

The Director of the Department of Ageing and Life Course, WHO, organized his presentation around three core topics: (a) health promotion throughout the life course; (b) ensuring access to age-friendly primary health, including early diagnosis and treatment of chronic diseases, access to quality and affordable medicines, the provision of palliative care and availability of home and institutional long-term care; and (c) creating environments that foster engagement by older persons. The Director noted that the exercise of several human rights, such as the right to adequate housing, social security,

equality and non-discrimination, played a central role in the health of older persons. In calling for a health system that was responsive to critical issues for older persons, he emphasized the importance of promoting a social protection floor for all. He noted that a human rights-based approach to health was affordable and feasible.

The Chief, Economic, Social and Cultural Rights Section, OHCHR, speaking on behalf of the Special Rapporteur on the enjoyment of the highest attainable standard of physical and mental health, offered observations from his thematic study on the right to health of older persons. The study, carried out pursuant to Human Rights Council resolution 15/22, will be considered by the Council at its eighteenth session, in September 2011. In his study, the Special Rapporteur noted that older persons are rights holders, who at times may require support to claim their rights. Building on the concept of active and dignified ageing, the Special Rapporteur outlined a right-to-health approach to the design and implementation of policies and programmes and called for resources allocated to the provision of geriatric health care. She also referred to the Special Rapporteur's concern about reported and unreported violence against older persons, notably in care facilities, and about the lack of safeguards to ensure free and informed consent for any health-related decision.

Jan Killeen of Alzheimer's Disease International highlighted the linkages between Alzheimer's disease and related types of dementia and age discrimination. Ms. Killeen started by recalling that 1 person in 9 over the age of 65 has Alzheimer's disease, the majority of them being women. Despite those figures, only seven countries have published a national plan on these diseases. There is a lack of research, especially in the developing world, often linked to the wrong perception of the diseases as a normal part of ageing, although they can be diagnosed early and treated adequately. In addition, stigma and isolation, neglect in health plans and programmes, lack of funding and lack of awareness and adequate training of health professionals render older persons with these diseases highly vulnerable to discrimination and isolation.

During the ensuing dialogue, several delegations noted the importance of training health professionals in this field, including, not only gerontologists but also nurses, family doctors and other health professionals. Mental health and age-friendly services should also be included in national health systems. In some of their statements, delegates offered examples of developments to enhance awareness of mental health and how home care and home nursing systems had worked, as well as illustrative examples of municipalities providing services and appliances universally. Non-communicable diseases and their prevalence among older persons were also raised, in view of the High-level Meeting of the General Assembly, on the Prevention and Control of Non-communicable Diseases, to be held in September 2011.

While some delegations referred to existing international instruments protecting the right to health of older persons, notably the International Covenant on Economic, Social and Cultural Rights, and welcomed, for example, the use of existing norms by the Special Rapporteur in his study, the Pan American Health Organization and some delegations and non-governmental

organizations noted that existing instruments did not provide sufficient specificity, inter alia, about quality, accessibility and long-term care.

Day two (4th meeting): violence and abuse against older persons

(Moderated by Mozah Al-Kaabi (Qatar), Vice-Chair of the Working Group)

The Chair of the Committee against Torture underlined the importance of enforceability and scrutiny of the way States address vulnerability of specific population groups, such as older persons, as part of their obligations under international human rights law. The Chair called attention to the importance of due process rights, the timeliness of any judicial remedy for the lives of older persons and the need to protect their property and social security. He then noted that the definition of torture took into account the particular circumstances of an individual, including their health conditions and age. It was the duty of States to investigate and punish any conduct that could amount to inhuman or degrading treatment in places such as psychiatric institutions or prisons where older persons might not be able to protect themselves. He also offered some comments about the lack of sufficient resources and existing overlaps in the treaty body system as issues to consider if a new instrument was to be discussed.

Kieren Fitzpatrick, Director of the Asia Pacific Forum, started by presenting his organization as a network of 17 national human rights institutions, noting that the Asia-Pacific region remained the only region without a human rights system. Considering the specific issue of violence and abuse, the majority of national human rights institutions in the region had focused on institutionalized care settings. Incidents of physical, emotional, sexual and financial abuse had been identified. In general, the incidents were a result of neglect or ill treatment, although sometimes they were a direct result of abuse. Several examples were mentioned, such as inappropriate and use of restraints, isolation and forced locking of doors, inappropriate use of medication and malnutrition, as well as lack of consideration with regard to autonomy and personal safety.

Teresa Minja, Chair of the Tanzania Social Protection Network, presented the reality of older women in the United Republic of Tanzania, who often live in poverty and face problems of age discrimination, low income, poor health and limited access to health-care services, including extreme violence and abuse. The presentation clearly illustrated the linkages between low living standards and violence and abuse. Owing to illiteracy and a lack of awareness of their rights and available support systems, older women easily become vulnerable to rights violations and abuse. In addition, widowhood profoundly changes the status of women in the country, undermining their security. Customary laws deny widows the right to inherit common matrimonial assets. For older widows, discrimination compounds the effects of a lifetime of poverty and gender discrimination, which can result in extreme impoverishment and isolation. In addition, disputes over property ownership and inheritance have often led to accusations of witchcraft, which in turn result in violence, abuse and the killing of older women. Government efforts to address the situation may at times be hindered by the community's belief in witchcraft. Reality in the United Republic of Tanzania shows a mix of

normative and implementation gaps in the protection of human rights of older persons, which could be improved by better legislation and the revision of national laws related to inheritance.

In the ensuing dialogue, there were further considerations about criteria related to torture, inhuman and degrading treatment. The Chair of the Committee against Torture reiterated that cases of extreme and repeated violence against individuals could be examined in the context of the Committee. Many cases of violence, however, are not interpreted as torture, although they could fall under this category. Several delegations and civil society representatives also shared the reality in their own countries, revealing that violence against older persons was present in all regions and economic contexts. This issue is for instance pervasive in all of Europe, as highlighted in the most recent WHO Europe report on preventing elder maltreatment. As observed by civil society representatives, public and policymakers are increasingly concerned about the problem and the rights of older persons need to be strengthened.

Day three (5th meeting): social protection and older persons

(Moderated by the Chief of the Development and Economic and Social Issues Branch, OHCHR)

Wambui Kimathi, Commissioner of the Kenyan National Commission on Human Rights, presented the report of her office entitled "Growing old in Kenya", which offered three key lessons: (a) focusing on the rights of older persons matters and informs policy priorities; (b) focusing on the process of ageing can be crucial in getting policymakers, advocacy groups and individuals to appreciate the importance of the issue; and (c) this approach is important in bringing about interaction among individuals, communities and State and non-State actors. The Commissioner noted that Kenya had developed a social assistance initiative which provided $22 per month to older persons. More infrastructural support is needed, however, to allow independent living of older persons. Identifying a mix of policies and initiatives that positively intervened throughout the ageing process was of paramount importance. Social support should rest on the shoulders of individuals, communities and non-State (e.g., insurance companies) and State actors, and family members should be encouraged to take care of their older persons.

The Special Rapporteur on extreme poverty and human rights of the Human Rights Committee pointed out that the right to social security was firmly grounded in international human rights law and that several treaties contained specific references to old-age protection through social security schemes. While human rights treaties apply to all members of society, including older persons, in practice States are not offering older persons the protection they deserve. This lack of protection may justify the establishment of a specific standard directly aimed at the protection of the right to social security for older persons. The Special Rapporteur highlighted that a universal pension scheme was more in line with human rights obligations as: (a) it responded to the claim of universality of human rights norms; (b) it complied with the principle of equality and non-discrimination; (c) it reduced opportunities for corruption; and (d) there was no stigma attached as it was

available to all who complied with the age requirement. In addition, universal provision is the simplest structure with the lowest administrative costs. Integrating ageing populations into policymaking may require States to approach their protection of older persons not only through domestic legislation but also through the adoption of new international standards that can encourage change at the domestic level. She also mentioned that international standard-setting should only be pursued if there was international consensus, including in order to avoid backtracking on existing standards (that is, their interpretation by mandate holders).

Salvacion Basiano of the Confederation of Older Persons' Associations of the Philippines discussed the lack of employment opportunities for older persons in her country and the difficulty in obtaining credit for older persons, especially for the less educated and the poor. While the Government's focus on urban development has caused massive rural to urban migration, older persons cannot take advantage of the new urban jobs, which require a high school diploma, a degree that most rural older persons do not have. In addition, community health centres are often inadequate, lacking medicines and sufficient professional staff. Older persons have organized small income-generating projects, such as the organization's livelihood programme, which includes microlending.

In addition, advocacy, lobbying and marching as "street parliamentarians" have contributed to older persons' empowerment and brought visibility to their concerns. A number of congressmen and senators have filed bills seeking to protect older persons, but the Government has to address many issues that are still unresolved regarding its older constituents.

In the ensuing dialogue, delegations and civil society organizations reflected on existing social protection programmes and policies and their adequacy in their respective societies. Specific topics included universal minimum pensions, incentives for older persons to stay in the labour market, policies geared towards caregivers, the provision of affordable medicines and health insurance for older persons, participation in all levels of society, efforts for more intergenerational solidarity and provisions addressing disability in old age. In addition, there was recognition of the potential pitfalls in the way that data on older persons and the households in which they lived were collected and analysed. Panellists also emphasized the importance of effective community organizing, empowerment and participation of older persons in decision-making and a bottom-up, participatory approach to policy development and evaluation.

Day three (6th meeting): age and social exclusion of older persons

(Moderated by Jean-Pierre Gonnot, Department of Economic and Social Affairs)

Ellen Bortei-Doku Aryeetey, University of Ghana, noted that in Africa there was a traditional version of what ageing meant and of the role of older persons that no longer corresponded to present day realities. For example, older people in Ghana apparently retain control of power in the family and the community, they still largely head households and they continue to exercise authority over productive assets. There is also increasing reliance on older

persons by their families both in financial and labour terms, particularly in caring for children and relatives. Nonetheless, older persons in Ghana often live in poverty and public services give them inadequate attention. Only 2 per cent of older persons are registered for national health insurance, which provides free health care to all citizens age 65 and over. Only 10 per cent of the workforce has social security coverage, and most older persons rely on informal support and remittances.

Ms. Aryeetey also mentioned that, owing to high unemployment, there was a trend among youth to push out older workers as well as a growing rejection of the control over power by the elderly. Older women are still suffering from superstitious beliefs, including the association of elderly women with witchcraft. While the Government of Ghana has a commitment to the implementation of the Madrid International Plan of Action on Ageing, much still remains to be done, including fostering public debate on ageism and the exclusion of older persons.

Oldrich Stanek of the Czech non-governmental organization Život 90 spoke about the civil society response on the subject of ageing to the European Year for Combating Poverty and Social Exclusion, in 2010. Non-governmental organizations noted that a combination of factors, including low income, poor health, gender-based discrimination, reduced physical or mental capacity, unemployment, isolation, abuse and limited access to services, explains, in part, the increasing risk of poverty and social exclusion as people age. AGE Platform Europe undertook two projects to enable older persons and their associations to organize themselves and engage in dialogue with decision makers at the local, national and regional levels on the issues of poverty and social exclusion. AGE Platform Europe also prepared recommendations for the European Union and Member States addressing minimum incomes, national targets for poverty reduction by age and gender, gender equality in employment, transition to retirement and continued social inclusion, as well as universal access to essential services.

Himanshu Rath, from Agewell Foundation, spoke about the historical and cultural traditions that restricted the role of older persons in India. He noted that older persons were often ignored by the young, families and the Government. Mr. Rath emphasized the precarious situation of older women in India due to social and traditional family structures. He noted that older women faced abuse, mistreatment, age-related discrimination, lack of access to their inheritance and economic exploitation. Mr. Rath also called for better research on the effects of the rapid socio-economic development on the behaviour towards older persons. Furthermore, awareness-raising and lobbying needed to be undertaken to protect the rights of older persons.

During the interactive dialogue, Member States acknowledged the need for inclusive policies and programmes for older persons. The need for strengthened governance, development of social cohesion policies along with multidimensional indicators, and the inclusion of stakeholders was also noted by one regional group. One Member State quoted statistics from a national study that showed how older persons thought about old age, with the results being overwhelmingly negative.

Day four (7th meeting): identification of existing gaps at the international level and measures to address them

The session was organized as a plenary discussion with a view to identifying existing gaps in the international human rights system and highlighting areas where further discussion was required. Marie Keirle (France) and Kieren Fitzpatrick of the Asia Pacific Forum were invited by the Chair as facilitators of the session. The session was well attended, with approximately 80 delegations present.

Ms. Keirle opened the discussion with an overview of the mandate of the Working Group. She suggested that the discussion focus on four types of gaps, namely: (a) normative gaps; (b) implementation gaps; (c) monitoring gaps; and (d) information gaps. As exemplified by the array of issues and examples offered by panellists and participants, she noted that it was important to keep in mind the diversity of situations of older persons and the differences among and within countries and regions in terms of legislation, policies and programmes.

Ms. Keirle offered a brief summary of some of the main thematic issues that appeared consistently during the discussions. The following 10 substantive issues appeared consistently throughout the discussions:

- Age-related discrimination is a clear challenge around the world. Multiple discrimination, in other words the compound impact of discrimination based, primarily, on age and sex, but also on health and socio-economic conditions and place of residence (whether urban or rural), is also a matter of concern.
- Ageism, stigma and prejudice have an impact on various human rights, including at its worst the right to life (e.g., witchcraft allegations and persecution). Old age is often portrayed as a weakness. Stigma and prejudice also result in not recognizing the contribution that older people continue to make to society.
- Poverty disproportionately affects older persons. Old-age poverty appears to be a result of the lack of protection mechanisms, as well as a consequence of specific policies (for example, mandatory retirement ages and inadequate social protections to ensure a minimum standard of living), financial exploitation or denial of rights (for example, no inheritance rights for widows).
- Violence and abuse of older persons in care institutions and family settings is a global phenomenon that is often underreported and unrecorded, and not always understood. There is insufficient legislation or mechanisms to prevent or investigate such abuse or to provide adequate remedies.
- Women and a gender dimension central to the discussion: older women are more at risk of violence, neglect and poverty and of living with lower pensions or no pension at all, as many women primarily work in the informal sector all their lives.
- Exercising legal capacity: measures to provide protection or access to support the exercise of legal capacity by older persons, related, for

instance, to health treatment, property and inheritance, institutionalization and place of residence, are necessary. There is a need to provide safeguards to prevent abuse by relatives or caregivers and to ensure legal and judicial mechanisms for revision.

- The physical and mental health of older persons is at the core of human rights concerns. Special measures are needed to ensure prior informed consent and the guarantee of various rights in the context of health (including privacy, freedom of movement and personal integrity). Areas of concern include denial of access to: diagnosis, treatment and care; affordable medicines and adequate services; trained health professionals; and the provision of aid devices and palliative and long-term care.

- Social protection and social security: issues covered include contributory and non-contributory pensions, incentives for older persons to stay in the labour market, policies geared towards caregivers, intergenerational solidarity and provisions addressing disability in old age.

- Social exclusion of older persons: significant factors also include lack of information, knowledge and understanding of the rights of older persons, mechanisms for participation, education for all regardless of age and adequate consultation in decision-making.

- Equality before the law to prevent negative differential treatment: there is a need to address formal and substantive equality and the relevance of emphasizing the positive obligations of States, particularly in relation to age-friendly social policies and services.

With regard to the cross-cutting aspects of the discussions, Ms. Keirle highlighted the need for public debate and for political will to advance the protection of older persons. She noted the importance of participation and intergenerational solidarity, the need for more data and statistics, including more disaggregation, and access to adequate services and care, and the need to ensure that there was a more positive portrait of older persons within society at large.

A lively plenary discussion ensued, with 22 delegations taking the floor. In addition two regional statements, one on behalf of the European Union and one on behalf of MERCOSUR and Chile were delivered. Ten representatives (of non-governmental organizations, civil society organizations and networks) also took part in the discussion.

Mr. Fitzpatrick summarized the statements on the current situation at the national level:

- In many countries, adequate legislation and policies have not been adopted; if adopted, some are recent and have not yet been implemented. Legislation and policies remain dispersed, underfunded or insufficient. In some cases, the approach was sectoral and failed to offer a comprehensive view. Laws and policies would further benefit from a better understanding of the barriers that affect the exercise of rights by older persons and from the existence of sufficient data.

- In recent years, legislation and policies have been adopted in some countries. Some have been the result of regional guidelines or

mechanisms applied at the national level, most notably in Europe. A few examples include advances (laws prohibiting age discrimination in employment and campaigns against stigma), good practices and lessons learned (inclusion of large numbers of older persons in the social security system and user-friendly mechanisms to report violence).

The facilitator also provided a summary of the discussion at the international level:

- Some delegations noted that existing international standards were sufficient but had been underutilized. There were no normative gaps but rather gaps in the implementation of existing instruments to the particularities of older persons. Existing treaty body monitoring mechanisms and special procedure mandate holders should be encouraged to incorporate the situation of older persons more systematically into their areas of work. Member States should include the situation of older persons in their reports and should also use other opportunities for monitoring, such as the universal periodic review in the Human Rights Council.

- Some delegations argued that existing international instruments, while applicable to older persons, did not offer adequate protection, visibility or specificity to older persons. Unique barriers and specific challenges faced by older persons deserve dedicated attention. There are specific normative gaps requiring the application of universal standards, and there are good lessons at the national level that could serve to define international guarantees. The existing system has led to fragmentation and has not provided a systematic approach or a clear channel for monitoring.

Mr. Fitzpatrick noted that several suggestions had been offered with the aim of strengthening the international human rights protection system for older persons, many of which could be implemented in parallel:

- Elaboration of a binding international human rights instrument (convention) to address normative gaps and offer monitoring mechanisms with dedicated focus.

- Establishment of a new mandate holder (independent expert or Special Rapporteur) with a human rights mandate, to continue the analysis of the situation and collection of data and improve the realization of human rights and fundamental freedoms of older persons with a view to developing a new instrument.

- Strengthening of the use of existing international human rights instruments to protect the rights of older persons, with a stronger and more systematic focus by existing treaty body mechanisms and special procedures on older persons in the universal periodic review.

- Emphasis on governance, policies and coordination to tackle these issues within regional contexts, including in the context of the second review and assessment of the Madrid International Plan of Action on Ageing scheduled for 2012 and 2013, and strengthening of the development agenda in relation to older persons.

- Commissioning of studies, further information and data analysis and development of indicators and monitoring mechanisms to strengthen implementation at the national and international levels.
- Further analysis of the social and fiscal costs of failing to address the situation of older persons and the increase in life expectancy.

In his closing remarks, the Chair of the Working Group invited the General Assembly to continue to support its work. He also asked the Secretariat to continue to provide assistance to the Working Group in terms of technical support and the preparation of documentation.

IV. Adoption of the report on the organizational session

35. At its 7th meeting, on 4 August, the Working Group adopted the draft report on its second working session (see A/AC.278/2011/L.4).